

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
ENTERED

FEB 25 2009

Michael N. Milby, Clerk of Court
By Deputy Clerk 

YOLANDA SALDIVAR, #733126

v.

NATHANIEL QUARTERMAN
DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. H-08-1026

ORDER

On February 18, 2009, Petitioner in the above-titled case filed a Notice of Appeal from the Order and Final Judgment entered in the instant habeas corpus action on February 2, 2009. (Docket Entry ("Doc.") No. 30). Although Petitioner has not filed an application for a Certificate of Appealability that sets forth the issues she intends to pursue on appeal, this Court may address the matter of her entitlement to a Certificate of Appealability *sua sponte*. *Alexander v. Johnson*, 211 F.3d 895 (5th Cir. 2000).

Under 28 U.S.C. § 2253(c)(2), a Certificate of Appealability may issue only if Petitioner has made a substantial showing of the denial of a constitutional right. In accordance with paragraph 2253(c)(3), this Court must specify which issues satisfy the showing under subparagraph (c)(2). Since Petitioner has not shown that this Court erred in its determination that her habeas corpus claims were time barred, and since the Court carefully reviewed her Objections, construed by this Court as a Motion for Reconsideration, which only further confirmed her claims were time barred, it is **ORDERED** that a Certificate of Appealability is **DENIED**.

Petitioner did not apply for *in forma pauperis* status in this case; therefore, she shall pay a filing fee of \$455 by **March 23, 2009**, or seek leave to proceed as a pauper in the Fifth Circuit Court of Appeals, where she should pursue any and all further relief with respect to the instant case.

DONE at Brownsville, Texas, this 24th day of February, 2009.



JOHN R. FROESCHNER
UNITED STATES MAGISTRATE JUDGE